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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,869	02/17/2004	Robert F. D'Ausilio	IOS9601-CIPD	1482
7590	03/22/2005		EXAMINER	
Giaccherini Post Office Box 1146 Carmel Valley, CA 93924			SWIATEK, ROBERT P	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p><i>Office Action Summary</i></p>	Application No. 10/779,869	Applicant(s) D'AUSILIO ET AL.	
	Examiner Robert P. Swiatek	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-85 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-85 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, drawn to a method of operating a nuclear powered vehicle in orbit and providing controlled kinetic energy, classified in class 244, subclass 158R.
- II. Claims 23-52, drawn to a method of operating a nuclear powered vehicle in orbit and generating electrical energy on board the vehicle, classified in class 244, subclass 158R.
- III. Claims 53-72, drawn to a method of operating a nuclear powered vehicle in orbit and processing information on board the vehicle, classified in class 244, subclass 158R.
- IV. Claims 73-76, drawn to a method of operating a nuclear powered vehicle in orbit and using the vehicle for emanating direct broadcast signals to a receiver, classified in class 244, subclass 158R.
- V. Claims 77-80, drawn to a method of operating a nuclear powered vehicle in orbit and using the vehicle for emanating and receiving telecommunication signals to a receiver, classified in class 244, subclass 158R.
- VI. Claims 81-85, drawn to a method of operating a nuclear powered vehicle in orbit and generating a propagated signal on board the vehicle, classified in class 224, subclass 158R.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as an electromagnetic launcher for satellites. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as an electrical energy generator aboard a conventionally-powered spacecraft. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as an in-orbit computer aboard a conventionally-powered spacecraft. See MPEP § 806.05(d).

Inventions IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as in a transmitter on board a conventional, non-nuclear-powered satellite. See MPEP § 806.05(d).

Inventions V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VI has separate utility such as in an exterior lighting system aboard a non-nuclear-powered spacecraft. See MPEP § 806.05(d).

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Under Invention I:

- a. A method in which the controlled kinetic energy affects another satellite (claim 2)
- b. A method in which the controlled kinetic energy is used to move a satellite (claim 3)
- c. A method in which the controlled kinetic energy is used to rescue or repair a satellite (claims 4, 5)
- d. A method in which the controlled kinetic energy is used to transport a payload to or from a satellite (claims 6, 7)
- e. A method in which the controlled kinetic energy is used to transport a payload to or from a celestial body (claims 8, 9)
- f. A method in which the nuclear powered vehicle is sold (claim 10)
- g. A method in which the nuclear powered vehicle is leased (claims 11, 12)
- h. A method in which a customer using the nuclear powered vehicle is charged at a specified rate (claims 13-20)
- i. A method in which the controlled kinetic energy is provided to a plurality of customers (claims 21, 22)

Under Invention II:

- a. A method in which the electrical energy affects another satellite (claim 24)

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- b. A method in which the electrical energy is used to move a satellite (claim 25)
- c. A method in which the electrical energy is used to rescue or repair a satellite (claims 26, 27)
- d. A method in which the electrical energy is used to transport a payload to or from a satellite (claims 28, 29)
- e. A method in which the electrical energy is used to transport a payload to or from a celestial body (claims 30, 31)
- f. A method in which the nuclear powered vehicle is sold (claim 32)
- g. A method in which the nuclear powered vehicle is traded (claim 33)
- h. A method in which the nuclear powered vehicle is leased (claims 34, 35)
- i. A method in which a customer using the nuclear powered vehicle is charged at a specified rate (claims 36-43)
- j. A method in which the electrical energy is produced by a nuclear reactor on board the nuclear powered vehicle (claim 44)
- k. A method in which the electrical energy is conveyed to another satellite (claims 45-50)
- l. A method in which the electrical energy is provided to a plurality of customers (claims 51, 52)

Under Invention III:

- a. A method in which the information is used to affect another satellite (claim 54)
- b. A method in which the information is used to move a satellite (claim 55)

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- c. A method in which the information is used to rescue or repair a satellite (claims 56, 57)
- d. A method in which the information is used to transport a payload to or from a satellite (claims 58, 59)
- e. A method in which the information is used to transport a payload to or from a celestial body (claims 60, 61)
- f. A method in which the nuclear powered vehicle is sold (claim 62)
- g. A method in which the nuclear powered vehicle is leased (claims 63, 64)
- h. A method in which a customer using the nuclear powered vehicle is charged at a specified rate (claim 65)
- i. A method in which the information is conveyed to another satellite (claim 66)
- j. A method in which the information is conveyed to a receiver near a celestial body (claim 67)
- k. A method in which the information is conveyed using a radio signal (claim 68)
- l. A method in which the information is provided to a plurality of customers (claim 69)
- m. A method in which a customer is charged for receiving the information by the packet conveyed (claim 70)
- n. A method in which the information is used for reconnaissance or surveillance (claims 71, 72)

Under Invention IV:

- a. A method in which a customer is charged for receiving the direct broadcast signals by the packet conveyed (claim 74)

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b. A method in which a customer is charged for receiving the direct broadcast signals per a specified program of content conveyed (claim 75)

c. A method in which a customer is charged for receiving the direct broadcast signals according to a measured power flux density of signals (claim 76)

Under Invention V:

a. A method in which a customer is charged for receiving the telecommunication signals by the packet conveyed (claim 78)

b. A method in which a customer is charged for receiving the telecommunication signals according to a measured power flux density of signals (claim 79)

c. A method in which a customer is charged for receiving the telecommunication signals per a specified program of content conveyed (claim 80)

Under Invention VI:

a. A method in which the propagated signal conveys data and is radiated to another satellite (claims 82, 84)

b. A method in which the propagated signal conveys data and is radiated to a receiver near a celestial body (claim 83)

c. A method in which the propagated signal conveys usable energy (claim 85)

Applicants are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 23, 53, 73, 77, 81 are generic within each of their groupings (i.e., claim 1 is generic with respect to claims 2-22, claim 23 for claims 24-52, etc.).

Applicants are advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicants must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicants traverse on the ground that the species are not patentably distinct, applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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A proper response to this restriction and election requirement will elect one of Inventions I-VI for examination as well as one of the species (a, b, c . . .) associated with the elected invention.

RPS: ©703/308-2700 (current); ©571/272-6894 (future)

14 March 2005

Robert P. Swiatek

ROBERT P. SWIATEK

PRIMARY EXAMINER

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